UNITED NATIONS

General Assembly

FIFTIETH SESSION

Official Records

SIXTH COMMITTEE
19th meeting
held on
Friday, 20 October 1995
at 10 a.m.
New York

SUMMARY RECORD OF THE 19th MEETING

Chairman:	Mr. LEHMANN	(Denmark)
later:	Mr. BELLOUKI (Vice-Chairman)	(Morocco)
later:	Mr. LEHMANN (Chairman)	(Denmark)

CONTENTS

AGENDA ITEM 141: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-SEVENTH SESSION (continued)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of the publication* to the Chief of the Official Records Editing Section, room DC2-794, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

Distr. GENERAL
A/C.6/50/SR.19
8 November 1995
ENGLISH
ORIGINAL: SPANISH

95-81751 (E)

The meeting was called to order at 10.25 a.m.

AGENDA ITEM 141: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-SEVENTH SESSION (continued) (A/50/10, A/50/402)

1. Mr. SYARGEEU (Belarus) said that, while endorsing the idea that the Code of Crimes against the Peace and Security of Mankind should include only the most serious crimes, he felt that the proposed reduction was too drastic. He was particularly concerned about the possible exclusion of wilful and severe damage to the environment: in the case of the Chernobyl catastrophe, there had been a violation of the most sacred of human rights, the right to life. For that reason, he supported the suggestion of establishing a working group responsible for preparing a suitable text on the topic.

2. With regard to the penalties applicable to crimes, he favoured the elaboration of a general article to specify maximum and minimum penalties applicable to each crime and possible mitigating circumstances, and the deletion of the provisions on penalties from the other articles of the Code.

3. He expressed his satisfaction with the fact that the definition process had excluded involvement of a State in the commission of crimes. He was particularly pleased that the new definition of international terrorism took into account the fact that the peace and security of mankind could be threatened by acts committed by organizations or groups which were not necessarily affiliated with a State. Finally, he was confident that the elaboration of the statute of an international criminal court would expedite adoption of the draft Code.

4. Mr. Bellouki (Morocco), Vice-Chairman, took the Chair.

5. Mr. OBEID (Syrian Arab Republic), referring to the draft Code of Crimes against the Peace and Security of Mankind, said that he would prefer the crimes to be defined more clearly in order to avoid future problems of interpretation. It was not necessary to state that the crimes dealt with were those of international law since, when the Code was eventually approved, the crimes to which it referred would become part of international criminal law. He favoured the view that the definitions should be precise, rather than conceptual, in order to avert interpretations which would exclude certain crimes.

6. With regard to article 5, he shared the idea of broadening the area of responsibility to include not only individuals but also the State responsible for them.

7. He would welcome a clearer definition of extradition and requests for extradition in article 6. When an international criminal court was established, the current wording of that provision might be dispensed with. In his opinion, the seriousness of the crimes envisaged in the Code justified their imprescriptibility.

8. Referring to article 8, he said that there must be due judicial guarantees to ensure that the trial took place before an impartial tribunal.

9. With regard to article 15, he said that aggression would have to be clearly defined. The final decision on the matter should be taken, not by a political body such as the Security Council, but by a legal body.

10. The draft enumerated other serious crimes. However, the occupation of territories, the establishment of settlements and the displacement and persecution of indigenous peoples were additional current examples of blatant violations of human rights.

11. The question of reducing the number of crimes included in the Code must be examined at greater length, since all of those crimes constituted serious offences against the human conscience and threats to the peace and security of mankind. His delegation reserved the right to return to the question and to suggest the inclusion of other crimes so that the list would not be incomplete.

12. The concept of jus cogens might hinder the creation of an international criminal court for trying individuals or States. The compulsory jurisdiction of that court should not be limited to States parties to the statute, since limiting it to those States would not protect mankind against the crimes covered. If the sentences were limited to parties to the statute, only citizens of States which had acceded to the convention would be punished. The system would break down, since the international criminal court would not be able to judge all crimes against mankind.

13. The close links which existed between the international criminal court and the United Nations had not been clearly defined. In practice, that court would be a body established by States parties to a treaty rather than a body created by the General Assembly which represented all the peoples of the world.

14. Ms. LADGHAM (Tunisia) said that it was necessary to increase efforts to complete the Code of Crimes against the Peace and Security of Mankind. It was extremely important to coordinate work on the Code with work on the statute of an international criminal court, since the two instruments would be complementary, and it would be necessary to ensure the harmonization of their provisions.

15. With regard to the competence ratione materiae of the Code, the possibility of reincorporating some of the deleted crimes, such as apartheid, should be considered. The deletion of the paragraphs referring to the Security Council from article 15, on aggression, was appropriate, since a political body should not impede the function of a judicial body. For that reason, she disagreed with the idea of relying on the Security Council's definition of aggression rather than defining it in the Code; on the contrary, it would be useful to enumerate the acts which constituted aggression.

16. The proposal of the Special Rapporteur to replace the title "Systematic or mass violations of human rights" by "Crimes against humanity" might give rise to confusion, since all of the crimes defined in the Code would be crimes against mankind. It was important to indicate that the article dealt with massive and systematic violations, since the idea was that violations alone were an international crime when they were carried out on a certain scale.

17. Moreover, bearing in mind the events in Bosnia and Herzegovina, the Code should also include the crime of rape. The International Law Commission should give the same priority to the crime of international terrorism as to the other crimes, and article 24 was a good point of departure for doing so.

18. The Code should not only define crimes with precision but also enumerate the applicable penalties. Despite the reluctance of some Governments in that regard, the Commission should give priority to studying the matter. It was largely a question of the link to be established between the Code and the international criminal court.

19. In order to achieve its aims of preventing and punishing crimes against the peace and security of mankind, the Code should be binding.

20. Miss CHATOOR (Trinidad and Tobago), referring to article 1 of the draft Code, said that the definition could be based on the seriousness of the crimes concerned, the fact that they were a threat to the established legal order, and their transboundary nature.

21. Article 3, which should be worded in general terms, should refer to the principle of individual criminal responsibility. The Code should include a general provision on penalties. On the question of aggression, the definition left out the legal elements which distinguished aggression from other acts. The question of aggression and the role of the Security Council had serious political connotations, and it might therefore be useful to harmonize the approach pursued by the Commission with that of the debate on the draft statute for an international criminal court. In view of the difficulties associated with the concept of intervention, her delegation supported the proposal that it should be included as an element in determining that aggression had occurred.

22. Colonial domination and other forms of alien domination was one of the concepts which could not be defined easily or precisely for criminal law purposes. Her delegation proposed that the Commission should study the views of members of the Committee and reconsider the proposal for article 18 to be excluded.

23. Her delegation felt that genocide should be defined on the basis of the 1948 Convention, the provisions of which had been accepted by the international community and reflected customary international law.

24. Her delegation did not agree that the crime of apartheid should be excluded from the list, since apartheid could resurface. As to the inclusion in the Code of "institutionalized racial discrimination", an acceptable definition of that crime had to be drafted.

25. With regard to systematic or mass violations of human rights, in order for such acts to be punishable by an international criminal court, it had to be proved not only that they were systematic and conducted on a massive scale, but also that they were of an exceptional nature. It was not necessary for torture to be included in the list; it would be enough to include a descriptive list in a commentary or in an article or section on interpretation.

26. The Code should include the activities of mercenaries, not only because they posed a threat to peace and stability, but also because certain criminal activities such as trafficking in drugs, people and arms and terrorism were related to the recruitment of mercenaries. As to international terrorism, the new text of article 24 could serve as a basis for further consideration.

27. Her delegation felt that for illicit traffic in narcotic drugs to be the subject of international criminal jurisdiction it must be on a large scale, transboundary in nature and pose a serious threat to the established institutions in a State or region. The provision in the Code should cover not only individuals but also State agents or representatives.

28. In view of the ongoing damage being done to the environment, the Commission should give further consideration to the possibility of including in the Code the crime of wilful and severe damage to the environment. The Code should also contain a general provision on penalties. As far as possible, it should provide for the maximum penalty of life imprisonment and leave the international criminal court to determine other terms, depending on the circumstances of each case.

29. Mrs. BOUM (Cameroon), referring to the draft Code of Crimes against the Peace and Security of Mankind, said that her delegation was not in favour of the restrictive approach taken by the Special Rapporteur of excluding from the draft Code serious crimes such as intervention, colonialism, apartheid, mercenarism and international terrorism. The seriousness of the offence was the basic criterion for the formulation of the list of crimes to be included in the Code. With regard to colonialism, she said that as a result of the adoption by the General Assembly, in 1960, of the Declaration on the Granting of Independence to Colonial Countries and Peoples, that crime had entered the domain of jus cogens. The need to include the crime was, therefore, evident. The argument that it was a phenomenon of the past was not convincing.

30. Her delegation was concerned that the Commission had undertaken to conclude the second reading of the draft Code at its next session, in view of the many problems that still remained. Cameroon hoped that the results of the difficult work entrusted to the Commission would meet the expectations of the international community.

31. Mr. AL-ADHAMI (Iraq), referring to the draft Code of Crimes against the Peace and Security of Mankind, said that his delegation deplored the restrictive approach taken by the Special Rapporteur in excluding 6 crimes from the original list of 12. There was no justification for the exclusion of crimes as serious as, for example, intervention in the internal or external affairs of a State and colonial domination.

32. The Special Rapporteur had proposed a new text for the article on aggression. That article defined the crime of aggression and provided for individual criminal responsibility. However, it would be difficult to put into practice the principle of the independence of judicial authorities which should be the basis for those provisions.

33. The new text of article 22 was a significant improvement compared to the previous text, although the formulation was not ideal. Paragraph 2 (b), referring to the establishment of settlers in an occupied territory, had been omitted. Moreover, some offences which did not seem to be serious enough to be considered war crimes had been included, such as those mentioned in paragraph 1 (f) and (g). Lastly, the expression "inhuman treatment" used in paragraph 1 (b) should be made more specific.

34. Mr. MIKULKA (Czech Republic), referring to the topic of State responsibility, said the concept of "international crime" was not new, and its inclusion in article 19 was not attributable to the current Commission, whose mandate was limited to considering the consequences of internationally wrongful acts, including crimes in the sense of article 19. The distinction between an international delict and an international crime was based on the hypothesis that there were differences between the regimes of responsibility applicable to each category.

35. His delegation believed that, until the question of the consequences of wrongful acts had been fully considered, the debate on article 19 should not be reopened. It agreed that, in international law, State responsibility was neither civil nor criminal, but international in nature. If, in that context, it was considered that wrongful acts which threatened the fundamental interests of the international community did not have special consequences compared with "ordinary" wrongful acts, that would amount to recognizing that the concept of the fundamental interests of the international community was not legal but political in nature.

36. Internationally wrongful acts defined, rightly or wrongly, as "crimes" consisted of particularly serious violations of primary norms of international law of an imperative nature (jus cogens). The consequences of international crimes were governed by secondary norms which, consequently, should also be imperative.

37. His delegation shared the view of the Special Rapporteur that the obligation of cessation in the case of a crime was identical to the obligation to cessation in the case of an offence resulting from non-fulfilment of erga omnes obligations. However, it felt that the question of whether or not articles 7 and 8 of part two were applicable to crimes should be considered in greater depth, since it was not clear that, in the case of violation of an imperative norm of international law, the injured State could freely choose between compensation and restitution in kind. Indeed, the freedom to choose could be incompatible with the prohibition on derogating from an imperative norm by agreement among States. If that were so, it would have to be concluded that compensation was admissible only when restitution was materially impossible. His delegation also shared the view of the Special Rapporteur that article 7 (c) and (d) of part two should not be applicable in the case of crimes. When State crimes were committed, the injured party was the international community as a whole, so that restitution must not be subject to more limitations than those necessary to preserve the existence of the wrongdoing State and meet the vital needs of the population.

38. His delegation was mindful that the lack of a mechanism to determine, in the absence of aggression, whether or not a crime had been committed could make it more difficult to determine the consequences of international crimes. Nevertheless, he wondered whether that was sufficient reason not to spell out the consequences of the other wrongful acts which were detrimental to the fundamental interests of the international community and not to examine the possibility of establishing a mechanism of that nature, especially since a regime of liability for crimes could hardly be viable if an appropriate mechanism for its implementation was not established.

39. With regard to the "instrumental" consequences of crimes, the collective response of the international community should take precedence over the countermeasures of individual States, and the Commission should consider the question of whether "special" and "supplementary" consequences could arise from an actio popularis or, on the contrary, only from an actio communis carried out by the international community.

40. With regard to proportionality, all crimes affected the community of States to a greater or lesser degree, and therefore the principle of proportionality should be applied by each State individually. In any case, subparagraphs (a) and (b) of article 14 were superfluous, since the exercise of the right of self-defence and the measures taken by the Security Council did not constitute countermeasures.

41. There was every indication that the process of institutionalization of joint action aimed at enforcing liability for wrongful acts constituting a breach of fundamental international obligations would be a slow one. However that might be, the possibility that the mechanism provided for in article 19 of Part Two would function was remote. Consequently, the Commission should limit itself to an enunciation of general principles which would ensure that the question of fulfilment of specific and substantial obligations arising from international crimes remained within the exclusive competence of a mechanism established by the international community.

42. Finally, his delegation joined those others which had expressed support for the inclusion in the draft articles of optional mechanisms for the settlement of disputes.

43. Mr. HALFF (Netherlands), speaking on the topic of State responsibility, said that he agreed with the approach proposed by the Special Rapporteur in respect of crimes, namely, to distinguish between special consequences, in the form of aggravated forms of consequences provided for in articles 6 to 14 for delicts, and supplementary consequences in the form of new consequences. He further agreed that those consequences should be regarded as additional to those arising from articles 6 to 14. It must therefore be assumed that the legal consequences envisaged for international delicts under those articles could also be invoked by the injured States in the case of international crimes.

44. His delegation was satisfied with the proposed new article 7 and with articles 13 and 14 and their respective commentaries, as well as with articles 1 to 7 of Part Three and the annex thereto, *with its commentary*. It would have preferred, however, to also see compulsory arbitration in the situations

referred to in article 5 (1). Moreover, the commentary on article 6 (2) that the parties to the dispute were not obliged to permit fact-finding within their territory had no basis in the text of that article.

45. On the topic of international liability for injurious consequences arising out of acts not prohibited by international law, his delegation largely agreed with the text of draft articles A to D. It also agreed that the general obligation to prevent or minimize the risk of causing transboundary harm provided for in article A was an implicit consequence of the obligation not to cause transboundary harm and that it provided a clear foundation for other obligations relating to prevention. It shared the Commission's view that the general obligation laid down in article B was not an obligation of result but one of due diligence, and it basically agreed with the interpretation given by the Commission to the standard of due diligence.

46. Article C dealt with a question which could not be avoided in the draft articles. The Netherlands had always supported the view that the activities referred to in article 1 might involve no-fault liability and give rise to an obligation of reparation. He wished to refer to the statement made by the Netherlands on that subject at the forty-ninth session of the General Assembly. The Netherlands further supported the basic obligation laid down in article D. The drafting of the article was not entirely satisfactory, however, since it was difficult to see how a State of origin could be obliged to cooperate in minimizing the effects produced in its own territory by the infliction of transboundary harm. Moreover, certain of the reasons given in the commentary for seeking, "as necessary", the assistance of international organizations were not entirely appropriate. Finally, his delegation wished to express its appreciation for the valuable updated survey of liability regimes contained in document A/CN.4/471.

47. Mr. de SARAM (Sri Lanka) expressed concern at the criticisms of the Commission's methods of work and suggested that the Sixth Committee should consider those criticisms, perhaps during informal consultations, before the conclusion of its debate on the topic under consideration. In fact, some of those criticisms were inspired by legitimate concerns, particularly because the Committee did not always issue clear guidelines to the Commission when requesting it to prepare draft articles on specific topics.

48. Referring to the draft articles on State responsibility, it was unfortunate that the concept of "State crimes" had been introduced into the articles. The concept was at best questionable in light of the principles underlying international law, such as the sovereign equality of States, and was also heavy with criminal law connotations and moral implications and conveyed the impression that where there was crime there should also be punishment, a consideration which tended to confuse things. It was, moreover, inappropriate, since the purpose of the draft articles was not to punish but to compensate for breaches of international obligations. In any case, the institutions and procedures necessary to implement that concept were not yet in place. Moreover, to put them in place would require amendment of the fundamental provisions of the Charter, a task that was difficult, if not impossible, at the current time.

49. There was no doubt that that school of doctrinal thought, part of which believed that some breaches of international obligations were of such magnitude as to be in the nature of a crime, had made an important contribution to the development of public international law. Nevertheless, if the subject of State crimes again burdened its work the following year, the Commission would be unable to complete the draft articles, which would be unfortunate. The Sixth Committee should therefore give precise directions to the Commission on the matter.

50. On the question of the peaceful settlement of disputes, the approach adopted by the Commission in its draft articles on State responsibility was very flexible and as consensual as possible, though it stopped short of leaving the entire question out of the draft articles, making it instead an optional protocol or making no mention of it at all.

51. That approach had two main drawbacks. Firstly, many of the substantive provisions of the draft articles, namely, part one and part two, were necessarily imprecise and therefore open to differing interpretations. All in all, it would be illogical to leave them as they were, without defining dispute settlement procedures. Secondly, since in any dispute there was a stronger and a weaker party, the provisions for entrusting the decision to a third party in cases where the parties did not reach agreement were reasonable. They did, however, seem too elaborate; he believed that there should be only three conciliators and three arbitrators, especially in the light of the high fees that they charged. In some respects, therefore, the proposals made by the Commission appeared more appropriate for bigger disputes than for smaller ones.

52. Furthermore, he considered the provisions concerning fact-finding to be inappropriate, since they mentioned only fact-finding within the territory of one State and failed to specify the other formulas available.

53. However, he agreed with paragraph 2 of article 5, which entitled the State against which countermeasures had been taken to submit the dispute to an arbitral tribunal.

54. One of the fundamental questions of contemporary international law with regard to State responsibility was that of material transboundary harm. It was an area in which judicial and arbitral jurisprudence was sparse and all treaty negotiations had given rise to difficulties, except in the case of the Convention on International Liability for Damage Caused by Space Objects. If Governments had not shown the will to resolve those difficulties, it was because, should they agree to be bound by treaties or other formulas, they would probably have to accept exorbitant financial liabilities, given the potentially catastrophic proportions of the transboundary harm that such objects could cause. Thus, treaties and international custom in the field of transboundary harm had not developed in line with reality. The stagnation of the Commission's discussions on the subject might be due to its awareness of the major repercussions that any decision would have in respect of both codification and the progressive development of law in that area.

55. He considered that the principle of due diligence had lapsed, given that, in practice, it imposed upon the claimant State a burden of proof which was

almost unattainable in a highly industrialized world. The matter might be resolved if a case of alleged transboundary harm was submitted to arbitration or judicial decision. As a last resort, the General Assembly could be asked to request an advisory opinion from the International Court of Justice; it would, however, be extremely difficult for the General Assembly to agree to a solution of that type.

56. Lastly, his delegation recommended to the Commission that, before preparing draft articles on material transboundary harm, it should prepare a list of the legal problems involved and possible solutions. The Commission could neither adopt a final decision on the subject solely on the basis of general principles of law nor draft a general set of rules on matters in which it had insufficient technical competence by relying almost entirely on the model of European treaties, which were not applicable on the world-wide scale.

57. Mr. S. R. RAO (India) said that the problem of countermeasures in general and the concept of crime in particular had to be seen in the context of the practice of countermeasures. The practice of a claimant State acting as a judge in its own cause was suspect, and for that reason should be restricted carefully. It was important that States should not be allowed to take the law into their own hands.

58. The difficulty with the concept of State crime was that in the current world order, there were no ground rules for determining violations or institutions for making objective and impartial determinations of grave wrongs or crimes. Further, linking the concept of crime to the notion of "differently injured States", enabling such States to react to the crime in question, could pose a severe threat to world peace and security.

59. To the extent that the consequences of State crime involved measures such as disarmament and the dismantling of war industries, those consequences were suitable only in the case of a crime of aggression and, additionally, as part of an obligation imposed upon the vanquished by the victor or under a mechanism of sanctions created under Chapter VII of the Charter. Accordingly, such obligations could not be implemented either as self-enforceable obligations under international law or as sanctions. Also, his delegation did not agree with the idea of requiring States to accept fact-finding missions within their territory.

60. Regarding article 13, dealing with proportionality, his delegation accepted in principle the terms in which it was drafted, as well as the commentary; but it could not agree that no exception should be made when it came to the adoption of countermeasures in the case of violations of human rights and of erga omnes obligations, as recommended in the commentary on the evaluation of the degree of gravity of the wrongful act and of its effects. India considered that human rights and erga omnes obligations should be governed by their own regimes and could not be automatically brought under the law of State responsibility.

61. In respect of the conditions to be met for the application of countermeasures, he agreed in principle with the normative character of article 14, paragraphs (a), (c), and (d), but considered that paragraph (b) should be discussed in detail to arrive at a more precise formulation based on

the practice and interests of States, particularly the interests of the developing countries, which were not in a position to tolerate even the slightest economic or political coercion.

62. It was highly unlikely, in most cases, that the reference in article 14 (e) to the peremptory norms of general international law would serve to identify them; those norms would therefore continue to be a matter of preference rather than a matter of evidence based on State practice.

63. In respect of the question of the settlement of disputes, rather than the proposed system, which involved the creation of a compulsory third party settlement procedure, his delegation would prefer a more flexible procedure, designed to prevent abuses in the use of countermeasures. However, it would not be a realistic, acceptable alternative in the absence of universally recognized principles of international law and of objective and impartial forums. Given the decentralized system of sanctions in contemporary world society, the disadvantages of any system of jurisdiction not willingly and voluntarily accepted were obvious. In addition, it was most unlikely that any settlement of a dispute would be viable or lasting if it was perceived to have been imposed. His delegation therefore maintained its reservation on that subject.

64. Mr. Lehmann (Denmark) resumed the Chair.

65. Mr. P. S. RAO (Chairman of the International Law Commission), introducing chapters III, VI and VII of the report of the Commission, referred firstly to the issue of State succession. In his first report on the subject, the Special Rapporteur, Mr. Mikulka, had taken as his basic premise that, while nationality was essentially governed by internal law, international law imposed certain restrictions on the freedom of action of States, including the principle of effective nationality and human rights law. He had stressed the need to distinguish clearly between the nationality of natural persons and that of legal persons and had emphasized that the effects of State succession on the nationality of each should be studied separately, the problem of natural persons being the most urgent.

66. According to the Special Rapporteur, ratione materiae, the Commission should consider the obligations of States in respect of the withdrawal and attribution of nationality, as well as the right of option. Ratione temporis, he had proposed that it should pay attention to the problems which could arise before the successor State had adopted laws on nationality. He had also proposed that the Commission should consider whether the rule of continuity of nationality, which essentially arose in the context of diplomatic protection, should apply in the context of State succession.

67. In the course of the Commission's debate, the idea of elaborating a treaty had been eliminated, on the ground that it was a lengthy process not responsive to the present and pressing needs of certain States. It had been suggested that the Commission should draw up a list of principles which could be incorporated in agreements between States, or that it should focus on general factors or criteria which States would be free to adapt to specific cases. The possibility was also considered of establishing a series of presumptions, such as the

presumption that every person had the right to a nationality and that no person should become stateless as a result of State succession.

68. A working group chaired by the Special Rapporteur had undertaken a closer examination of the obligation of States to negotiate in order to resolve any nationality problems that might have arisen as a result of State succession. A number of preliminary conclusions had been reached. The Working Group's point of departure had been that, in situations resulting from State succession, every person affected by the change had a right to a nationality, and that States were required to prevent statelessness. The Working Group had recommended that negotiations between States should address not only the problem of statelessness, but also other issues related to the loss and acquisition of nationality, such as entitlement to pensions and other social security benefits, separation of families and military obligations.

69. The Working Group had classified the various types of State succession in three categories: secession, unification and dissolution. In each of those instances, it had examined the rights and obligations of predecessor and successor States with regard to a number of categories of persons classified according to criteria such as place of birth, mode of acquisition of nationality and place of residence. The Group had also considered the question of the right of option and had concluded that the will of the individual was a consideration which, with the development of human rights law, had become paramount. Accordingly, it had suggested that, under certain circumstances, the right of option should be recognized.

70. As to the applicability of other criteria to the withdrawal and grant of nationality, the Working Group had agreed that, while withdrawal of, or refusal to grant, a specific nationality in the context of a State succession should not rest on ethnic, religious, cultural or other criteria, a successor State should be allowed to take such criteria into account for enlarging the circle of individuals entitled to acquire its nationality.

71. In connection with section 5 of its report, concerning the consequences of non-compliance with the principles applicable to the withdrawal or the grant of nationality, the Working Group had formulated certain preliminary hypotheses. In connection with section 6, it considered that the rule of continuity should not be applied in the context of State succession. In general the International Law Commission had noted with appreciation the report of the Working Group .

72. With reference to chapter VI of the Commission's report, dealing with the law and practice relating to reservations to treaties, he drew attention to the conclusions of the Commission's discussions and urged States to complete promptly the questionnaire that they would be receiving from the Special Rapporteur, through the Secretariat. The conclusions included a recommendation that the title of the topic should be amended to read "Reservations to treaties".

73. In introducing chapter VII of the Commission's report, "Other decisions and conclusions of the Commission", he described the planning of activities for the remainder of the current quinquennium. The Commission had decided to include the topic of "Diplomatic protection" in the agenda of its long-term programme of

work. It also planned to take up the complex, substantive subject of international environmental law, for which purpose it wished to be authorized, as a first step, to conduct an extensive feasibility study of rights and duties of States for the protection of the environment, so that it would be in a position to recommend to the General Assembly the exact scope and content of the future topic. In addition, the Commission had considered various matters based on the recommendations of its Planning Group, particularly the need to improve its working methods for preparing draft articles. Given its heavy agenda, the Commission had again strongly recommended that the next session should be of 12 weeks' duration, as in previous years.

74. With regard to cooperation with other bodies, the Commission attached great importance to maintaining its links with the Asian-African Legal Consultative Committee, the European Committee on Legal Cooperation and the Inter-American Judicial Committee. On the subject of the International Law Seminar, which was funded by voluntary contributions to the United Nations Trust Fund for the International Law Seminar, the Commission had noted with particular appreciation that the Governments of Austria, Denmark, Finland, France, Germany, Ireland, Norway, Switzerland and the United Kingdom had made voluntary contributions to the Fund and had emphasized the importance of the Seminar, which enabled young lawyers, especially from developing countries, to familiarize themselves with the work of the Commission and the activities of the many international organizations with headquarters in Geneva. As all available funds were exhausted, the Commission had recommended that the General Assembly should again appeal to States to make the voluntary contributions that were needed to hold the Seminar in 1996 with as broad a participation as possible.

The meeting rose at 1.05 p.m.